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Right of peoples to self-determination

Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly, in accordance with its resolution 61/151, the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

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Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Summary

The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination was established pursuant to Commission on Human Rights resolution 2005/2. It is mandated, inter alia, to monitor mercenaries and mercenary-related activities in all their forms and manifestations in different parts of the world, and to study the effects on the enjoyment of human rights of the activities of private companies offering military assistance, consultancy and security services on the international market.

The present report is submitted in accordance with General Assembly resolution 61/151. Section II outlines the activities undertaken by the Working Group, including the implementation of General Assembly resolution 61/151, the Working Group's second session, held from 19 to 24 February 2007 in Geneva, and describes field missions to Honduras, Ecuador, Peru, Fiji and Chile. It refers to actions taken under the Working Group communications procedures, and reports on consultations held at the governmental, intergovernmental and non-governmental levels.

Section III depicts country situations by region and summarizes the responses received to a questionnaire sent in April 2007 to all Member States. Section IV contains an overview of relevant international developments, including the status of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, and also regional developments as reported by regional and other intergovernmental organizations.

Section V addresses the Working Group's future activities and section VI contains its conclusions and recommendations. The Working Group promotes the ratification of and accession to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, and the incorporation of relevant legal norms into national legislation. It also recommends the setting up of regulatory mechanisms to control and monitor the activities of private military and security companies, including a system of registering and licensing those companies, and to sanction them when norms are not respected. The Working Group reiterates its recommendation that regional round tables be organized followed by a high-level round table, convened under United Nations auspices, to discuss the fundamental question of the role of the State as holder of the monopoly on the use of force.

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I. Introduction

1. At its sixty-first session, the Commission on Human Rights decided, in resolution 2005/2, to establish a working group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, made up of five independent experts, for an initial period of three years. The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination succeeded the mandate of the Special Rapporteur on the use of mercenaries, as a means of impeding the exercise of the right of peoples to self-determination established in 1987. The Working Group is headed by its Chairperson-Rapporteur, José Luis Gomez del Prado (Spain) and is composed also of Najat Al-Hajjaji (Libyan Arab Jamahiriya), Amada Benavides de Pérez (Colombia), Alexander Nikitin (Russia) and Shaista Shameem (Fiji).

2. Pursuant to its mandate, the Working Group has continued to monitor mercenaries and mercenary-related activities in all their forms and manifestations, and to study the effects on the enjoyment of human rights of the activities of private companies offering military assistance, consultancy and security services on the international market. During the period under review, the Working Group held its second session in Geneva, from 19 to 24 February 2007, and undertook field visits to Honduras, Ecuador, Peru, Fiji and Chile. The Working Group has received and acted upon information concerning individual cases and situations, and addressed letters of allegation and urgent actions to Governments.

3. For the purposes of the present report, and while recognizing the definitional challenges, the Working Group refers to private military and private security companies as including private companies which perform all types of security assistance and training, and provide consulting services, including unarmed logistical support, armed security guards, and those involved in defensive or offensive military and/or security-type activities, particularly in armed conflict areas.

4. Pursuant to resolution 2005/2, the Working Group submits its second report to the General Assembly, for consideration at its sixty-second session.

II. Activities of the Working Group

A. Implementation of General Assembly resolution 61/151

5. In response to General Assembly resolution 61/151, in April 2007, the Working Group addressed a questionnaire to all Member States and submitted an adjusted questionnaire also to regional and other intergovernmental organizations, inviting contributions on the implementation of the resolution, with a view to reporting, with specific recommendations, its findings.

6. The information requested concerned (a) the steps, including legislative and other measures, that Governments had taken to ensure that territories under their control, as well as nationals of their States, were not used for the recruitment, assembly, financing, training and transit of mercenaries; (b) how Governments exercised vigilance against any kind of recruitment, training, hiring or financing of

mercenaries by private companies that offered military and security consultancy and services, and whether a specific ban had been imposed on these companies intervening in armed conflict; (c) whether Governments were considering taking the necessary action to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries; (d) whether Governments had investigated the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occurred and, if applicable, brought to trial those found responsible or had considered their extradition; (e) whether Governments had brought to justice perpetrators of mercenary activities and those responsible for the use, recruitment, financing and training of mercenaries; (f) whether Governments had cooperated with and assisted the judicial prosecution of those accused of mercenary activities in transparent, open and fair trials.

7. Furthermore, the Working Group invited information as to whether Governments had adopted, were in the process of adopting, or had considered for adoption in the future any measures in order to regulate the outsourcing of functions traditionally undertaken by members of the armed forces; and which functions Governments considered "inherently governmental" (i.e. those which could not be performed by the private sector).

8. The Working Group welcomes the responses received from 23 Member States and from 6 regional and other intergovernmental organizations (see sects. III and IV below). The Working Group encourages other Member States and regional and other intergovernmental organizations to submit their responses also to enable the Working Group to complete a forthcoming comparative analysis.

B. Second session of the Working Group

9. The Working Group held its second session in Geneva from 19 to 23 February 2007. It elected José Luis Gomez del Prado its Chairperson-Rapporteur for the coming year. It held consultations with representatives of Member States, United Nations agencies and organs, the Office of the United Nations High Commissioner for Human Rights, the International Labour Organization, the International Committee of the Red Cross, regional and other intergovernmental organizations, non-governmental organizations and an association of private military and private security companies.

10. After having considered a number of country situations, the Working Group decided to address letters of request, or renewed requests, to the Governments of Afghanistan, the Central African Republic, Chad, Equatorial Guinea, Fiji, Ghana, Iraq, Papua New Guinea, South Africa, the United States of America and Zimbabwe. With regard to regulatory initiatives, the Working Group agreed, as a short-term objective, to promote the ratification/accession of Member States to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, and, as a long-term objective, to seek support for a process towards a protocol to the International Convention, in order to address newer forms of mercenarism and the activities of private military and private security companies. On 23 February 2007, the Working Group issued a press release upon concluding its second session.[1]

[1] Available from the website of the Office of the United Nations High Commissioner for Human Rights (www.unhchr.ch).

C. Field missions

1. Honduras

11. A delegation of the Working Group, composed of its Chairperson-Rapporteur and one member, visited Honduras from 21 to 25 August 2006.

12. The Working Group submitted its report on the visit to Honduras (A/HRC/4/42/Add.1) to the Human Rights Council at its fourth session, and welcomed the invitation and excellent cooperation with the Government.[2] It recommended, inter alia, that the regulatory framework for private security companies be strengthened, that international human rights and other relevant United Nations standards be incorporated in the training provided by private security companies to their employees, and that a transparent registry of these companies be maintained. It urged the authorities to adopt measures enabling them to respond promptly to complaints submitted by individuals who had returned from Iraq, and to inquiry about the possible responsibility of private security companies.

2. Ecuador

13. A delegation of the Working Group, composed of the Chairperson-Rapporteur and one member, visited Ecuador from 28 August to 1 September 2006.

14. The Working Group submitted its report on the visit to Ecuador (A/HRC/4/42/Add.2) to the Human Rights Council at its fourth session, and welcomed the invitation and excellent cooperation with the Government.[3] It recommended, inter alia, that the Government accede to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries; consider incorporating the legal obligations thereof by means of a separate national law, or the inclusion of mercenary acts as an offence in the Criminal Code; complete promptly the investigations surrounding the private company Epi Security and Investigations; and ensure effective remedies to those affected by the spraying programme under Plan Colombia.

3. Peru, Fiji and Chile

15. The Working Group also visited Peru, Fiji and Chile in 2007. It expresses its appreciation to the Governments of those countries for their invitations. Comprehensive reports on these missions, including its conclusions and recommendations, will be submitted to the Human Rights Council at a forthcoming session. The present section provides an overview of the Working Group's preliminary observations expressed upon the completion of the respective visits.

16. A delegation of the Working Group, composed of the Chairperson-Rapporteur and one member, visited Peru from 29 January to 2 February 2007. It received information indicating that hundreds of Peruvians had been recruited and trained in Peru by private security companies to work in Iraq and Afghanistan as security guards. The recruiting companies operating in Peru worked for companies based abroad and with contracts obtained from the Government of the United States of America. The Working Group was informed of contractual irregularities, poor

[2] The Government of Honduras submitted its comments on the report; see document A/HRC/4/G/6.

[3] The Government of Ecuador submitted its comments on the report; see document A/HRC/4/G/9.

working conditions, partial or non-payment of salaries, neglect of basic needs and that over 1,000 Peruvians allegedly remained in Iraq. It also received allegations that private security groups or police officers engaged in private security work were involved in actions to intimidate persons in the Cajamarca region. The Working Group recommended, inter alia, that in the process of bringing its legislation into line with the International Convention, Peru should adopt the broadest possible interpretation in order to typify, at the domestic level, not only the traditional offence of acting as a mercenary but also mercenary-related activities, taking into account the emergent trends of the activities of private security companies.[4]

17. A delegation of the Working Group, composed of the Chairperson-Rapporteur and one member, visited Fiji from 14 to 18 May 2007. It noted that Fiji had an established tradition of well-trained, disciplined and highly skilled military and security personnel who had performed security functions in various capacities worldwide, including for the United Nations. The Working Group, however, expressed concern that the activities carried out by Fijians recruited by private military and private security companies to operate in Iraq could qualify as mercenary-related activities. The Working Group also received information about some Fijians who had been exploited by private military and private security companies, and whose experience had included contractual irregularities and poor working conditions. It recommended, inter alia, that Fiji accede to the International Convention, develop accompanying national legislation, establish a system of regulation, licensing, control and monitoring of private security companies in order to provide effective oversight, and adopt measures to address issues of reintegration and post-traumatic stress disorder for individuals returning from security work abroad.[5]

18. At the invitation of the Government, a delegation of the Working Group, composed of the Chairperson-Rapporteur and one member, visited Chile from 9 to 13 July 2007. It studied the recruitment, training and contracting of Chileans to work with private security companies operating in Iraq. Although contracted as security guards, the recruits were allegedly provided with military training by private companies in the United States, Jordan or Iraq and eventually performed military functions. Although it noted that the Chilean authorities had responded promptly, it expressed concern that Chileans were still being recruited to perform security duties in Iraq. The companies concerned were apparently not registered in Chile and some were subsidiaries of private military and private security companies registered abroad. The Working Group also received information on abuses of the human rights of indigenous communities, allegedly by security guards contracted by forestry companies. It welcomed the measures taken, including a draft bill submitted in the Congress for accession by Chile to the International Convention, the establishment of an inter-institutional working group to study provisions to be adopted in internal legislation relating to mercenarism, efforts to replace the current law on private security services by a new law and draft bills concerning the reform of military careers. The Working Group recommended, inter alia, that the inter-institutional working group should conclude its study on penalization and legislation at the national level with a view to adopting the broadest possible criteria for the offence of mercenarism, that the investigations in the military courts should be

[4] See press release dated 5 February 2007 at the website of the United Nations High Commissioner for Human Rights at www.unhchr.ch.

[5] See press release dated 18 May 2007 at www.unhchr.ch.

swiftly concluded and that urgent measures should be taken to safeguard the rights of Chilean nationals still working in Iraq.[6]

19. The Working Group reiterates its appreciation to the Member States that invited it to visit and contributed, thus, to the fulfilment of its mandate. It welcomes indications from other States of forthcoming invitations and renews its appeal for invitations from Afghanistan, the Central African Republic, Chad, Colombia, Equatorial Guinea, Ghana, Iraq, Papua New Guinea, South Africa, the United States of America and Zimbabwe.[7]

D. Communications

20. The Working Group has increasingly received information from Governments, non-governmental organizations and individuals concerning situations involving mercenaries, mercenary-related activities and private military and security companies. During the year under review, communications have been sent to Colombia, Ecuador, Honduras, Peru and the United States of America. The communications and summaries of responses received from Governments will be reflected in the report of the Working Group to be submitted to the Human Rights Council at a forthcoming session.

E. Other activities

21. In 2007, the Chairperson-Rapporteur of the Working Group has consulted with delegates of over 40 permanent missions in Geneva.

22. The Chairperson-Rapporteur and one member of the Working Group participated in the fourteenth annual meeting of mandate holders in Geneva from 18 to 22 June 2007. During that visit, the Chairperson-Rapporteur held separate consultations and also participated in a meeting, on 19 June 2007, hosted by the Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises.[8]

23. Furthermore, the Chairperson-Rapporteur of the Working Group and its members have conducted other activities, including consultations with stakeholders, and have participated in workshops and university lectures in their respective regions. The Chairperson-Rapporteur and one member participated in the workshop on the theme of human rights special procedures and the institution of the special rapporteur, organized by the United Nations University and the Raoul Wallenberg Institute, in Lund, Sweden, from 2 to 4 May 2007;[9] and in the "Dialogue on private military and security companies and human rights", organized by the Business and Human Rights Resource Centre, in London, on 8 May 2007.[10]

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[6] See press release dated 14 July 2007 at www.unhchr.ch.

[7] In a letter dated 19 April 2007, the Government of Iraq stated that "the security situation in Iraq would not allow the Working Group to do their work in an effective manner".

[8] For a summary of the meeting, see www.reports-and-materials.org/Ruggie-special-procedures-19-Jun-2007.pdf.

[9] The workshop produced the Lund Statement, which was issued as Human Rights Council document A/HRC/5/18.

[10] For a summary note by the Business and Human Rights Resource Centre, see www.business-humanrights.org/Links/Repository/978963/jump.

24. The Chairperson-Rapporteur chaired and made a presentation to a seminar entitled "Privatization of security and warfare and impacts on human rights", hosted by the Business and Human Rights Resource Centre, held at the Palais des Nations in Geneva on 21 March 2007. He also participated in a round table on the United Nations and new forms of mercenarism, held at the Faculty of Law of the Universidad Complutense de Madrid on 24 May 2007. He made a presentation to a seminar on the theme "Poverty, inequality and torture: addressing the economic, social and cultural root causes of violence through the United Nations procedures system", organized by the World Organization Against Torture, in Geneva, from 18 to 22 June 2007. Furthermore, he made a presentation on "Privatizing the use of force: accountability issues and implications for local communities" at a seminar entitled "Transforming societies emerging from conflicts: an agenda for equality and social justice", organized by the University of Deusto in Bilbao, Spain, on 28 and 29 June 2007.

25. During the period under review, the Working Group and the issues it addresses under its mandate received important and wide coverage by international and local media, including by printed and electronic media, radio and television stations. The Working Group recognizes and welcomes the contribution of the media in the dissemination of its findings and recommendations.

III. Country situations

26. The section below reflects responses from Member States to the Working Group questionnaire, sent out in April 2007, on the implementation of certain paragraphs of General Assembly resolution 61/151 (see paras. 5-8 above). While it appreciates all responses received, the Working Group notes the position of some States that mercenarism does not exist in, or affect, their countries. That position was also expressed by some States during other consultations. In this regard, the Working Group notes that many States have, in recent years, been taken by surprise by modern forms of mercenarism, including unforeseen effects of the recruitment activities of private military and private security companies. The Working Group therefore urges States to take proactive measures, including legislative and other action at the national level, to prevent all forms of mercenarism and fulfil their State obligations of due diligence in respecting, protecting and ensuring human rights.

A. Africa

27. As of 16 August 2007, the Working Group had received and welcomed responses from the following States in Africa: Algeria, Madagascar, the Sudan and Tunisia. While Algeria, Madagascar and the Sudan reported the absence of a specific ban on private companies that offered military and security consultancy and services intervening in armed conflicts, they pointed out that they had relevant laws with provisions concerning national integrity and security.

28. In a letter dated 31 May 2007, the government of Algeria referred to legislative provisions provided in the Constitution (arts. 25, 26 and 27) and in the Penal Code. Article 76 of the Penal Code establishes the offence of peacetime recruitment of volunteers or mercenaries on Algerian territory for a foreign power or entity, while

article 87 bis 6 provides that it is an offence for any Algerian national to be active in or a member of a subversive or terrorist association, group or organization abroad, even if its activities are not directed against Algeria. The penalties for these offences range from 10 to 20 years' imprisonment and fines. The Government stated that no such form of mercenarism via private companies or individuals existed in the country. It pointed out that investigative and judicial proceedings had been carried out with regard to the implication of mercenaries in criminal acts of a terrorist nature and individuals had been brought to justice for terrorist acts. The Government considered that all public functions concerning the sovereignty of the State, in particular law enforcement, the armed forces and the justice system were inherently governmental functions that could not be exercised by the private sector.

29. In a letter dated 14 June 2007, the Government of Madagascar referred to legislative measures, including the Malagasy Penal Code, articles 75 to 108 of which provide for the punishment of any act posing a threat to the safety of the State and articles 265 to 267 for the repression of criminal associations. Madagascar ratified the Convention for the Elimination of Mercenarism in Africa of the Organization of African Unity in 2005. The Government also reported on laws and provisions concerning territorial integrity, security and defence, responsibility therefor lying solely with the State. It indicated that intervention in armed conflicts was the responsibility of the armed forces alone and that no private companies engaged in national defence. The National Police cooperated fully within the INTERPOL framework in judicial proceedings regarding individuals accused of mercenary activities. The Government considered that the functions attributed to the Ministries of Defence, Finance and Budget, Foreign Affairs, Justice and the Interior were inherently governmental.

30. In a letter dated 27 June 2007, the Government of the Sudan referred to relevant legislative measures, including its 1991 Criminal Code. Article 61 of the Code establishes it as an offence for any non-member of the regular armed forces to carry out, participate in or instigate unauthorized military exercises, operations or manoeuvres, and article 51 criminalizes the mobilization or training of persons or mustering of weapons or equipment for the purpose of instigating a war against the State (this also applies to the mobilization and equipping of soldiers for the invasion of a foreign State). The Government informed the Working Group of its laws on the armed forces and national police, which solely recruit Sudanese nationals. It indicated that there was no scope for any foreign forces to perform the conventional functions of the armed forces, except for peacekeeping or regional forces. The Government provided information about local companies offering services, such as the procurement of safety equipment and the control of access to private sector facilities and certain Government institutions; the employees of such companies must be Sudanese nationals. The activities of these private companies were limited to those mentioned above; no companies provided military services. The Government reported that a German national had been brought to justice in an open trial for providing mercenary-related services to the Anya-Nya movement in Southern Sudan in 1970, and that Vladimir Ilich Ramírez Sánchez (alias Carlos the Jackal) had been arrested in the Sudan in 1994 and extradited to France.

31. In a letter dated 11 July 2007, the Government of Tunisia indicated that its legislation did not address specific offences concerning the recruitment, assembly, financing, training and transit of mercenaries. The Government informed the Working Group of steps taken, notably the ratification of the Additional Protocol to

the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of International Armed Conflicts; the accession of Tunisia in 1984 to the Convention for the Elimination of Mercenarism in Africa; and several relevant provisions in the Tunisian Penal and Military Codes. It pointed out that its legislation prohibited the creation of private companies offering military and security consultancy services, because those functions fell essentially under the responsibility of the Ministries of Defence and of the Interior and Development. The Government regarded all functions concerning the sovereignty of the State, and in particular those relevant to national defence and the maintenance of public order, as inherently governmental.

B. Asia and the Pacific

32. As of 10 August 2007, the Working Group had received and welcomed responses from the following Member States in Asia and the Pacific: Bangladesh, Lebanon, Malaysia, Qatar and Yemen.

33. In a letter dated 30 May 2007, the Government of Bangladesh referred to relevant legislative measures, including the Arms Act and the Explosive Substance Act, which prohibit the possession by any private individual of any firearms or explosive without license from the proper Government authority. Other than in the armed forces of Bangladesh, no private person could undertake military training for soldiering either in or outside the country. The authorities had their own intelligence/information-collection mechanisms with regard to the recruitment, training, hiring or financing of mercenaries, and the Government could take punitive actions against persons or private organizations accordingly. It listed the following functions as inherently governmental: (a) the national security of Bangladesh; (b) the maintenance of law and order in the country; (c) the protection of people and their property; and (d) ensuring justice for the people.

34. In a letter dated 5 July 2007, the Government of Lebanon stated that mercenary activities were illegal and an offence of "illegal association" punishable by law. The Government informed the Working Group of the relevance of articles 335 and 337 of the criminal code, which addressed situations where two or more persons create an association/company; make written or oral agreement in view of committing a crime against civilians or assets; take over power; or attack military, financial or economic institutions. Regarding threats of attack or attacks on life, institutions or public administrations, the Government indicated that there were no private security associations or companies working in this domain with the permission of the authorities. Such associations or companies did not usually work in controlling security, which was the responsibility of the military forces.

35. In a letter dated 17 July 2007, the Government of Yemen informed the Working Group that article 36 of its Constitution prohibited the establishment of army, paramilitary and auxiliary groups, under any circumstances. In addition, in accordance with article 36, only the State could create military forces, security units or any other forces, and these belonged to the people. The function of those State forces was to secure the Republic and its territories, and it was forbidden for any organ, group establishment or political party to create such forces. The Government pointed out that those functions were exclusively governmental and should not be outsourced to anyone at any stage. It stated that there were no private companies in Yemen recruiting mercenaries and that the law did not allow for the creation of such

companies. Any cases related to mercenarism had been transmitted to the Ministry of Justice.

36. In a letter dated 30 May 2007, the Government of Qatar informed the Working Group of the offence in its national legislation of the recruitment of soldiers to engage in hostilities against a foreign State, as reflected in article 114 of the Penal Code no. 11, under the section on offences against State security. The Government stated that there were no companies providing military services in the country. With regard to security companies, these were established by and operated under licence from the Ministry of the Interior. Activities that might be devolved to non-State bodies were confined to security of buildings and the protection of non-State facilities, such as commercial enterprises. Such activities could be entrusted to security protection companies, which were licensed by the competent authorities and subject to governmental supervision and control and to special regulations. The Government pointed out that the terrorist incident in 2005 in Qatar had been an isolated incident and that no mercenaries had been implicated.

37. In a letter dated 29 May 2007, the Government of Malaysia stated that mercenaries were not an issue in the country.

C. Eastern Europe and Central Asia

38. As of 10 August 2007, the Working Group had received and welcomed responses from the following Member States in Eastern Europe and Central Asia: Armenia, Azerbaijan, Croatia, Latvia and Moldova. Armenia and Azerbaijan informed the Working Group that no clear and specific ban had been imposed on private companies that offered military and security consultancy and services, intervening in armed conflicts.

39. In a letter dated 29 June 2007, the Government of Armenia indicated that mercenarism was qualified under article 395 of its Criminal Code as a crime against peace and humanity. The issue was specifically addressed in article 395.1, concerning the individual definition of mercenaries, and article 395.4, concerning the recruitment of mercenaries. The Government stated that no private military and private security companies existed in Armenia and had not since its independence, and that if they were to form, they would be prosecuted in accordance with criminal law. The "Law on Protection" regulated the military service of Armenian nationals in foreign armed forces and of foreign nationals in the Armenian armed forces, as well as the deployment of armed forces. In accordance with article 11.2 of that law, the Ministry of Defence could deploy the armed forces on the basis of a Government decree. For the purposes of protection, military units from foreign countries could be deployed on Armenian territory in accordance with the provisions of relevant international agreements. The Government also informed the Working Group that the involvement of the private sector in State protection functions, which were exclusively and inherently governmental functions, was prohibited by law.

40. In a letter dated 20 June 2007, the Government of Azerbaijan informed the Working Group of relevant provisions of its Criminal Code. Article 114, paragraph 2 of the Criminal Code included a definition of "mercenary" as a person who acted with a view to receiving material compensation, was not a national of one of the parties to an armed conflict or hostilities, did not reside in the territory of one of the parties and had not been sent to perform official duties. Articles 32.3 and 32.4

included definitions of "organizer" and "instigator" relating to the commission of an offence and article 33.3 listed the associated criminal liabilities. Articles 114.1 to 114.3 listed participation in armed conflict or hostilities and the recruitment, training and financing of mercenaries as punishable offences. Article 279 of the code described participation in the establishment or activities of illegal armed formations or groups as punishable offences. In 2006, there had been seven convictions under article 214 (on the grounds of terrorism) and 13 convictions under the above-mentioned article 279. The Government also pointed out that national legislation did not provide for activities by private (non-State) military or security companies.

41. In a letter dated 7 August 2007, the Government of Croatia informed the Working Group that, in 2004, after it ratified the International Convention, it had amended the Criminal Code accordingly. Article 167 (b) established the offence of recruitment, use, financing and training of mercenaries, which was punishable by terms of imprisonment ranging from one to eight years. It also referred to the Act on the Liability of Legal Persons for Criminal Activity, with responsibilities for natural as well as legal persons. The Government also informed the Working Group that no criminal activity related to article 167 of the Criminal Code had yet been detected or processed.

42. In a letter dated 17 July 2007, the Government of Latvia informed the Working Group that current national legislation had provided sufficient guarantees against possible mercenary activities, and that it did not see any evidence of urgency of the matter in Latvia. The Government stated that it was in the process of evaluating the effects of accession to the International Convention on national legislation and governmental regulations.

43. In a letter dated 9 August 2007, the Government of Moldova informed the Working Group that various agencies and ministries, including the Information and Security Service, the Ministry of Justice and the Procurator General, were addressing mercenary issues and working on norms and measures to combat mercenary-related crimes. The Government stated that activities of physical or legal persons engaged in the recruitment, use, financing and training of mercenaries were punishable by law. It pointed out that Moldova had acceded to the International Convention in 2005 and that relevant legislation, such as Criminal Code articles 130 and 141, established the offence of mercenary activities punishable by terms of imprisonment (of) from 5 to 15 years.

D. Latin America and the Caribbean

44. As of 10 August 2007, the Working Group had received and welcomed responses from the following Member States in Latin America and the Caribbean: Chile, Colombia, Costa Rica, Ecuador, El Salvador and Haiti.

45. In a letter dated 18 April 2007, the Government of Chile informed the Working Group of an inter-ministerial working group, chaired by the Ministry of External Relations, established to study aspects of mercenary-related activities in issues of security and defence. The Government pointed out that it monitored mercenary activities through the Chilean police, and referred to meetings held at the national level to combat the phenomenon. The Government also referred to the activities of an individual who had recruited Chilean former soldiers, some of whom received

training in El Salvador and were later taken to Iraq to work as security guards. It informed the Working Group of the measures taken and of the transfer of the trial of that person from the military tribunal to the civil court; the case remained ongoing. It referred to the legislative texts and provisions that had been considered, the challenges in finding adequate penal sanctions under existing domestic legislation for this case and ongoing deliberations by the inter-ministerial working group to remedy the situation. It considered the functions of national defence, order and public security to be inherently governmental and stated that it was not planning to outsource any functions of its military forces.

46. In a letter dated 5 July 2007, the Government of Colombia informed the Working Group that article 341 of the Colombian Penal Code (Law 599 of 2000) described training for illicit activities as a penal offence, punishable by prison terms of from 15 to 20 years and by fines of from 1,000 to 20,000 minimum monthly salaries. According to article 340 of Law 599 (modified by Law 733 of 2002) provided that when there was an intent to commit genocide or to organize, promote, arm or finance illegal armed forces, penalties of prison terms of from 6 to 12 years and fines of from 2,000 to 20,000 minimum monthly salaries were applicable. Law 890 of 2004 had increased those penalties. Two specific means deployed to monitor mercenaries and related activities were the National Police and the Superintendence of Surveillance and Private Security. The latter, a national organ under the Ministry of Defence, monitored and exercised oversight of the private security industry. The Government reported that, although there had been judicial and police actions against perpetrators of terrorism, the National General Prosecutor had not yet investigated or registered any cases of mercenaries involved in terrorist attacks. With regard to its consideration of inherently governmental functions, the Government cited article 223 of the Constitution which, inter alia, established that only the Government could manufacture weapons, and ammunition of war and explosives, and the bearing of arms by members of law enforcement officials and other State agents was regulated by law.

47. In a letter dated 1 June 2007, the Government of Costa Rica informed the Working Group that it had not had an army since 1949. The Government referred to the amendments to the Law on Migration and Aliens of 2005 and to serious offences under the Law on Narcotics, Psychotropic Substances, Use of Non-authorized Drugs and Connected Activities. Although the offence of mercenarism did not exist in national legislation, the Government pointed out related sanctions including for offences against public order, against national security and against the public authorities and the constitutional order. A specialized agency, the Direccion de Inteligencia y Seguridad Nacional, under the Ministry of the Presidency, was responsible for investigating cases of possible recruitment, financing and participation of persons associated with subversive groups and related issues. Investigations of possible links between mercenarism and terrorism at the local and international levels had been conducted and were in their final stages. The Government also reported on cases of perpetrators of mercenary activities brought to justice in the 1980s; some individuals had been convicted; while others had been extradited or expelled from the country. The Government listed national security, politics, jurisdiction and the police as inherently governmental functions.

48. In a letter dated 10 May 2007, the Government of Ecuador informed the Working Group of the reform of its Penal Law in 2005, making penal offences the use of persons in armed conflicts and recruitment for the purpose of committing

offences. It also highlighted the 2003 law on private surveillance and security and the 2005 law on subcontracting, which regulated the functioning of private military security companies. It monitored mercenarism and related issues by means of the law on private surveillance and security (articles 8 and 17) and through the Ministry of Government and Police. The Ecuadorian army had the authority to suspend or cancel the permits of private security companies to possess and carry arms. The Government informed the Working Group of the existence of mailboxes to which individuals could address claims of human rights violations by subcontracted companies. It also provided updated information on a case dating from 2005, when an individual in Manta had recruited staff to work for private security companies in Iraq, pointing out that that case remained under investigation by the relevant authorities. The Government stated that no outsourcing of army functions existed. Reference was made to temporary contracts that had been granted to private security companies in the city of Guayaquil, on the basis of any emergency situation to ensure the security of citizens. The financing of private companies by the Guayaquil municipality was not regarded by the Government as a loss by the State of its monopoly on the use of force because that decision had been authorized by the Ministries of Government and of Defence and registered by the National Police. The Government considered inherently governmental the functions of national defence and security; the management of foreign policy; international relations; economic policy; the State tax system; the management of foreign debt; and other functions which the Constitution and international conventions specifically excluded from decentralization.

49. In a letter dated 26 July 2007, the Government of El Salvador informed the Working Group of its national legislation and highlighted the Law against Acts of Terrorism, the Law for the Protection of Victims and Witnesses, the Law against Organized Crime, the Law on Private Security Services and the Penal Code as relevant in combating mercenarism. The Government also referred to the regional pacification process known as Esquipulas II, whereby, in 1995, Presidents of Central American countries signed the Framework Treaty on Democratic Security in Central America, which, inter alia, prohibited the participation of foreigners, organizations or groups in attempts to destabilize other States. The Government exercised vigilance over mercenarism, monitored and investigated the activities of private military and private security companies by means of the National Police. Administrative checks were conducted by the Ministry of Labour and Social Security, which received a copy of all work contracts.

50. In a letter dated 2 August 2007, the Government of Haiti informed the Working Group that it had not had a national armed force since 1994. The Government pointed out that the territory was protected by the National Police, supported by an intelligence service, and also referred to the United Nations Stabilization Mission in Haiti, which collaborated with the police to help prevent the recruitment, assembly, financing, training and transit of mercenaries. A disarmament commission established in Haiti had enabled the arrest and trial of heads of illegal armed bands, although there was no specific ban on private military and security companies. The Government informed the Working Group that defence functions and those pertaining to internal security and justice in Haiti could not be outsourced to the private sector.

E. Western Europe and North America

51. As of 10 August 2007, the Working Group had received and welcomed responses from the following Member States in Western Europe and North America: Greece, Switzerland and the United Kingdom of Great Britain and Northern Ireland.

52. In a letter dated 27 June 2007, the Government of Greece informed the Working Group that only Greek citizens were recruited, with the sole and exclusive mission of serving in and satisfying the needs of the Greek armed forces. The Government pointed out that all recruitment, training, hiring or financing of mercenaries by private companies offering military and security consultancy was regulated by the relevant provisions of current legislation, such as those pertaining to the military service of Greek citizens, financial crimes and the transit of foreign armed forces.

53. In a letter dated 19 July 2007, the Government of Switzerland stated that only a small percentage of employees of private military companies could be considered mercenaries. The Government informed the Working Group that, while guaranteeing public order was the responsibility of the State, under Swiss law, privatization was possible for marginal sectors of police security activities; criteria were applied to determine whether a function could be assigned to the private sector. The Government was not planning to privatize army functions, although private companies could be engaged for logistical support and other services not linked to the use of force and subject to adequate surveillance by the authorities. The Government pointed out the measures taken to harmonize regulations concerning the activities of private security companies in all cantons; the Conférence des commandants des polices cantonales de Suisse was starting to elaborate measures in this area. The Federal Council had also asked the Federal Department of Justice and Police to examine the possibility of setting minimum standards for private security companies and to examine issues of authorization and registration.[11] One interdepartmental working group was examining a regulation for the federal authorities on minimum standards, and was preparing an Ordinance on the criteria by which the Swiss Confederation engaged private security companies. A second interdepartmental working group was assessing a registration requirement for private security companies that might use Switzerland as a base for operations abroad in conflict or problematic zones. The Government informed the Working Group that, following its study, the interdepartmental working group would examine the issue of requiring those companies to obtain an authorization or licence.

54. In a letter dated 15 May 2007, the United Kingdom of Great Britain and Northern Ireland informed the Working Group that, under the Foreign Enlistment Act of 1870, it was an offence in certain circumstances for a citizen, without licence of her Majesty, to enlist in the armed forces of a foreign State which was at war with another foreign State, if the latter was at peace with the United Kingdom, or for any person in the United Kingdom to recruit any person for such service. The Government was not aware of any case in which it had assisted in prosecutions in another country for mercenary activity. The Government considered it difficult to mount a successful prosecution for the offence created by the International Convention, particularly in the light of the need to establish an individual's

[11] See also the report of the Swiss Federal Council on private security and military companies of 2 December 2005, available from the website www.eda.admin.ch.

motivation beyond reasonable doubt, and had no plans to become a party to the Convention. Concerning plans for the regulation of private military or security activities, the Government referred to its 2002 green paper entitled "Private military activities: options for regulation", which had been followed by a more detailed review of policy options in the second quarter of 2005. The Government informed the Working Group that it was still considering the way forward.

IV. International and regional developments

55. The Working Group continues to promote universal accession to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries as the only global instrument dedicated to addressing mercenarism. It welcomes the fact that the Governments of Cuba and Peru have, in the past year, deposited the instrument of accession with the Secretary-General. The Working Group notes that there are now 30 States parties to the Convention: Azerbaijan, Barbados, Belarus, Belgium, Cameroon, Costa Rica, Croatia, Cuba, Cyprus, Georgia, Guinea, Italy, Liberia, the Libyan Arab Jamahiriya, Maldives, Mali, Mauritania, Moldova, New Zealand, Peru, Qatar, Saudi Arabia, Senegal, Seychelles, Suriname, Togo, Turkmenistan, Ukraine, Uruguay and Uzbekistan (see annex). The Working Group takes note of and welcomes indications of action towards acceding to the International Convention by Algeria, Armenia, Bangladesh, Ecuador, El Salvador, Ghana, Haiti, Honduras, Lebanon, Madagascar, Mauritius, Morocco, the Sudan, Tunisia, Venezuela (Bolivarian Republic of) and Yemen. The Working Group reiterates its availability to advise on and support these processes.

56. As part of its consultations with regional and other intergovernmental organizations, and in order to study regional standards and developments, in May 2007, the Working Group addressed a questionnaire concerning its mandate and activities. As of 16 August 2007, it had received and welcomed responses from the Association of Southeast Asian Nations, the Collective Security Treaty Organization, the Commonwealth, the Commonwealth of Independent States, the Council of Europe and the North Atlantic Treaty Organization.

57. In a letter dated 5 June 2007, the Collective Security Treaty Organization informed the Working Group that issues relating to mercenary activities were outside the mandate of the organization, and stated that the provision of security, including that on a collective basis, inherently could not be performed by the private sector.

58. In a letter dated 11 June 2007, the Council of Europe informed the Working Group that the Council for Police Matters had completed its report on the regulation of private security services, in which it analysed the lack of national legislation regulating the activities of private security companies in Council of Europe member States. The Working Group takes note of reference to a motion for a resolution in October 2004, when several members of the Parliamentary Assembly of the Council of Europe suggested that the expediency of a convention against the recruitment, use, funding and training of mercenaries should be considered, while noting also that that suggestion had not led to further action. The Council of Europe referred to its Parliamentary Assembly recommendation 1713 (2005) on democratic oversight of the security sector in member States, in which the Assembly noted that regulations should include provisions on parliamentary oversight, monitoring

mechanisms, licensing provisions and means to establish minimal requirements for the functioning of private companies. The Working Group notes that in an explanatory memorandum to that recommendation, the Assembly declared that the outsourcing of intelligence-gathering to private companies (for example, Internet or mobile phone companies) should be done on the basis of law and be subject to the approval of Parliament.

59. In a letter dated 15 June 2007, the Council of the Interparliamentary Assembly of Member Nations of the Commonwealth of Independent States (CIS) informed the Working Group that there was evidence of foreign mercenary involvement in armed conflicts in the territories of the member nations of the Commonwealth and pointed out that such persons taking part in combat operations were part of illegal armed units and their activities were not legitimate. The Council referred to the unanimous adoption of a model law on counteracting mercenarism by the Council in November 2005 and described the indirect effect of that model law and the need for supplementary legislation at the national level. The Council also stated that, during work on improving international legal standards to combat mercenaries, special conditions for making legal, conceptual and practical distinctions between the prohibited forms of military mercenary and the permitted legitimate activity of private companies offering military and security services should be established. The Council also believed that programmes of social reintegration of former soldiers should be treated as an effective element of prevention measures. In the light of the transnational character of the market for private military services, the Council reiterated the importance of international cooperation and suggested that common databases should be established and experience in legislative and law enforcement practices in combating mercenary activities should be exchanged.

60. In a letter dated 28 June 2007, the Association of Southeast Asian Nations (ASEAN) informed the Working Group that ASEAN had no mandate to deal with the subject matter.

61. In a letter dated 3 July 2007, the Commonwealth Secretariat informed the Working Group that it had no explicit regulations, restrictions or oversight with regard to the recruitment, training, hiring or financing of individuals or companies as mercenaries. The Commonwealth Secretariat, however, recognized and endorsed the consensus decisions adopted by the United Nations to combat the activities of mercenaries, which it viewed as an infringement on the authority and sovereignty of States and legitimate Governments. The Commonwealth would therefore support all efforts to combat those activities.

62. In a letter dated 11 July 2007, the North Atlantic Treaty Organization (NATO) informed the Working Group that, as a matter of policy, NATO did not employ mercenaries, nor did it employ private military and security personnel, if they were understood to perform military functions that could involve combat. It also informed the Working Group of a policy to govern the use of contractor support to operations, which was agreed by the North Atlantic Council on 26 January 2007. NATO had the view that contractor support to operations enabled competent commercial entities to provide a portion of deployed support, so that such support was assured for the Commander and optimized the most efficient and effective use of resources. It also pointed out that the agreed NATO policy made clear that contractor support was not applicable to combat functions, but rather to a wide range of technical and support functions. According to that policy, in an international armed conflict zone,

contractors should be treated as civilians accompanying the force and must not take a direct part in hostilities. NATO stated that most allies understood this to preclude the employment by NATO of private security companies for anything other than providing security services for static installations that would not normally be subject to the threat of military action.

63. The Working Group has also been informed and consulted with regard to the Swiss Initiative in Cooperation with the International Committee of the Red Cross to Promote Respect for International Humanitarian Law and Human Rights Law with regard to Private Military and Security Companies Operating in Conflict Situations.[12] In a letter dated 19 July 2007 and in documentation submitted subsequently, on 7 August 2007, the Government of Switzerland informed the Working Group on the Initiative, including associated workshops held in January and November 2006. The Working Group notes that this Government-driven process is not intended to legitimize the use of private military and security companies, but has three objectives: (a) to contribute to the intergovernmental discussion on the issues raised by the use of private military and private security companies; (b) to reaffirm and clarify the existing obligations of States and other actors under international law, in particular under international humanitarian law and human rights law; and (c) to study and develop good practices, regulatory models and other appropriate measures at the national and possibly regional or international levels, to assist States in respecting and ensuring respect for international humanitarian and human rights law. The Working Group extends its cooperation to this Initiative and hopes it will contribute to the consideration by States of appropriate national regulatory measures, including States which engage the private military and private security companies, those in which private military and private security companies are based and those with private military and private security companies operating on their territories.

V. Future activities

64. The Working Group will, during the coming year, pursue consultations with Member States to promote the widest ratification/accession of States to the International Convention.

65. With a view to obtaining invitations for future country visits, the Working Group will continue its consultations with the delegations of Afghanistan, Armenia, the Central African Republic, Chad, Colombia, Equatorial Guinea, Ghana, Iraq, Papua New Guinea, South Africa, the United States of America and Zimbabwe.

66. Within its mandate to develop new proposals on possible new standards, the Working Group has endorsed the proposal of the former Special Rapporteur on the question of the use of mercenaries (see A/60/263) to address fundamental questions concerning core actors in the monopoly of the use of force. It is of the opinion that States must make a clear distinction between those private companies which offer security services in strict compliance with imperative norms, regulations and accountability, such as respect for the principle of the State's monopoly on the use of the force, and those recruiting, training, hiring or financing mercenaries to operate in zones of armed conflict, whose activities should be criminalized.

[12] For documentation on the Swiss Initiative, see the website www.eda.admin.ch/psc.

67. In this regard, the Working Group has recommended the holding of five regional governmental consultations followed by a high-level round table, convened under United Nations auspices, which would allow for high-level political and methodological consideration of the issues that would enhance awareness of the emerging issues, manifestations and trends regarding mercenary-related activities and their impact on human rights (A/61/341, paras. 93-94 and 102). The Working Group reiterates the pertinence of such a process, which would facilitate a critical understanding of the responsibilities of the different actors involved, including private military and security companies in the current context, as well as their respective obligations for the protection and promotion of human rights.

VI. Conclusions and recommendations

68. **After two years of activities since its establishment. and after having carried out field missions to Chile, Ecuador, Fiji, Honduras and Peru and after having analysed the activities, at the international level, of a number of private companies that recruit, train, use or finance former military personnel and ex-policemen from all regions of the world to operate in zones of armed conflict, the Working Group is of the opinion that many such manifestations are new modalities of mercenary-related activities.**

69. **The trend towards outsourcing and privatizing various military functions by a number of Member States in the past 10 years has resulted in the mushrooming of private military and security companies. Many such companies are the supply side for numerous contracts, for example with the Department of Defense or the State Department of the United States of America, with a resulting tremendous increase in the number of private military and private security companies connected with the conflict situations in Afghanistan and Iraq. In order to fulfil their contracts and at the same time make the most lucrative profits, some of these transnational companies have, through subsidiaries or hiring companies, created, stimulated and fuelled the demand in third world countries for former military personnel and ex-policemen to be recruited as "security guards", who in fact are private militarily armed soldiers. Once they are in the zones of armed conflict, the existence of provisions in national legislation granting immunity to private military and private security company personnel can easily become de facto impunity, with these private soldiers appearing only to be accountable to the company which employs them. Some Governments appear to consider these individuals neither civilians nor combatants, though heavily armed. They are new modalities of mercenarism, but could easily be associated with the unclear concept of "irregular combatants". In many instances, these "private security guards" have encountered contractual irregularities, poor working conditions, a failure to satisfy basic needs and problems in obtaining financial compensation for injuries received.**[13]

70. **It was in this context that, in the questionnaire, following up the implementation of General Assembly resolution 61/151, the Working Group asked Member States whether they had adopted, were in the process of adopting or had considered for adoption in the future any measure to regulate**

[13] A/HRC/4/42, paras. 49-50, and A/HRC/4/42/Add.1, para. 19.

the outsourcing of functions traditionally undertaken by members of the armed forces. Member States were also requested to specify which functions must not be performed by the private sector. The responses will inform the Working Group in its consideration of when and to what extent private military and private security company personnel can be considered agents of the State and under the effective authority and control of Governments. In this regard, the Working Group notes that States that employ private military and private security companies may incur responsibility for violations of internationally recognized human rights committed by their personnel that are attributable to those States in accordance with the international rules on State responsibility, in particular if the private military and private security companies are empowered to exercise elements of governmental authority or are acting under governmental direction or control.

71. The Working Group is concerned at the low level of ratification of and accession to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries (30 States parties). Although this instrument has a number of loopholes, it is the only tool available at the global level that may allow control of the outsourcing of functions involving the use of violence which have been the monopoly of the State for centuries. It is for this reason that the Working Group encourages the eight Member States that have signed the Convention but have not yet ratified it to do so, and promotes accession by all other States that are not yet parties to the Convention.

72. The Working Group is also concerned at the lack of regulation at the regional and national levels regarding private military and security companies which operate without oversight and accountability. It believes that weak or insufficient domestic legislation, regulation and control of private military and private security companies encourage these transnational companies to seek to recruit former soldiers and ex-policemen from other countries as "security guards" in low-intensity armed conflicts. Because of the difficulty that war-torn States experience in regulating and controlling private military and private security companies, a significant part of the responsibility to regulate and control these companies falls on States from where these transnational companies export military and security services. The Working Group urges those exporting States to avoid granting immunity to private military and private security companies and their personnel. The Working Group is also concerned that, in spite of it having been drawn to the attention of Governments, including in some of the countries in which the Working Group has carried out field missions, the recruitment of former military personnel and ex-policemen by private military and private security companies to employ them as "security guards" in zones of armed conflict such as Iraq seems to be continuing.

73. The Working Group therefore:

(a) Calls upon all States that have not yet done so to consider taking the necessary action to accede to or ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries and to incorporate relevant legal norms in their national legislation. In this context, the Working Group considers that a model law could be elaborated with a view to facilitating accession of those States that wish to become parties to the

Convention, by indicating the steps to be taken in order to incorporate international norms into domestic legislation;

(b) Recommends that regional and other intergovernmental organizations, in particular the European Union, elaborate a common system to regulate private military and security companies exporting their services abroad;

(c) Encourages States to incorporate in domestic law relevant international legislation on these issues, as well as relevant regional legislation where regional frameworks exist (for example, the African Union, the Economic Community of West African States and the Commonwealth of Independent States);

(d) Recommends that, in order to ensure that the military assistance, consultancy and security services offered by private companies at the international level neither impede the enjoyment of nor violate human rights, Governments of States from which these private companies export such services adopt legislation and set up regulatory mechanisms to control and monitor their activities, including a system of registering and licensing that would authorize these companies to operate and allow them to be sanctioned when the norms are not respected;

(e) Encourages Governments that import the military assistance, consultancy and security services provided by private companies to establish regulatory mechanisms for the registering and licensing of these companies in order to ensure that imported services provided by these private companies neither impede the enjoyment of human rights nor violate human rights in the recipient country;

(f) Encourages Governments, when establishing such regulatory systems of registration and licensing of private military and private security companies and individuals working for them, to determine minimum requirements for the obligatory transparency and accountability of firms, provide for the background screening and vetting of private military and private security company personnel, ensure adequate training of such personnel on international human rights and international humanitarian law, as well as rules of engagement consistent with applicable law and international standards, and establish effective complaint and monitoring systems, including parliamentary oversight. Such regulatory systems should include thresholds of permissible activity. States should impose a specific ban on private military and private security companies intervening in internal or international armed conflicts or actions aiming at destabilizing constitutional regimes;

(g) Encourages States from which former military personnel and ex-policemen are being recruited by private security companies in order to send them to zones of low-intensity armed conflict or post-conflict situations to take the necessary measures to prevent such mercenary recruitment and to issue public statements and apply policies aimed at discouraging those practices;

(h) Recommends that United Nations departments, offices, organizations, programmes and funds establish an effective selection and vetting system and guidelines containing pertinent criteria aimed at regulating and monitoring the activities of private security and military companies

working under their respective authority. They should also require and ensure that the said guidelines comply with human rights standards and international humanitarian law. In particular, they should require that the personnel employed by private military and private security companies have not been involved in human rights abuses;

(i) Supports the recommendation of the former Special Rapporteur on mercenaries (see A/60/263) that a high-level round table, preceded by five regional governmental consultations, be convened under the auspices of the United Nations to discuss the fundamental question of the role of the State as holder of the monopoly on the use of force. Such meetings will facilitate a critical understanding of the responsibilities of the various actors, including private military and security companies, in the current context, and their respective obligations for the protection and promotion of human rights. They will also serve as a forum for discussion to arrive at a common understanding as to which additional regulations and controls are needed at the international level;

(j) Requests the General Assembly to increase accordingly the budget allocated for the Working Group in order to meet the demands of its future activities.

Annex

Status of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries as at 16 August 2007

State	*Signature, succession to signature (a)*	*Ratification, accession (b)*
Angola	28 December 1990	
Azerbaijan		4 December 1997 b
Barbados		10 July 1992 b
Belarus	13 December 1990	28 May 1997
Belgium		31 May 2002 b
Cameroon	21 December 1990	26 January 1996
Congo	20 June 1990	
Costa Rica		20 September 2001 b
Croatia		27 March 2000 b
Cuba		9 February 2007 b
Cyprus		8 July 1993 b
Democratic Republic of the Congo	20 March 1990	
Georgia		8 June 1995 b
Germany	20 December 1990	
Guinea		18 July 2003 b
Italy	5 February 1990	21 August 1995
Liberia		16 September 2005 b
Libyan Arab Jamahiriya		22 September 2000 b
Maldives	17 July 1990	11 September 1991
Mali		12 April 2002 b
Mauritania		9 February 1998 b
Moldova		28 February 2006 b

State	*Signature, succession to signature (a)*	*Ratification, accession (b)*
Montenegro	23 October 2006[a]	
Morocco	5 October 1990	
New Zealand		22 September 2004 b
Nigeria	4 April 1990	
Peru		23 March 2007 b
Poland	28 December 1990	
Qatar		26 March 1999 b
Romania	17 December 1990	
Saudi Arabia		14 April 1997 b
Senegal		9 June 1999 b
Serbia	12 March 2001[a]	
Seychelles		12 March 1990 b
Suriname	27 February 1990	10 August 1990
Togo		25 February 1991 b
Turkmenistan		18 September 1996 b
Ukraine	21 September 1990	13 September 1993
Uruguay	20 November 1990	14 July 1999
Uzbekistan		19 January 1998 b